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FILED

MAY 27 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA

v.

GREGORY ALLEN WEISS,

Defendant.

No. 3-08-70235 MAG

STIPULATION AND ~~PROPOSED~~
ORDER DOCUMENTING WAIVER

With the agreement of the parties, and with the consent of the defendant, the Court enters this order vacating the preliminary hearing date of May 28, 2008, setting a new preliminary hearing date on June 13, 2008, at 9:30 a.m., before the duty magistrate judge, extending the time for the preliminary hearing under Federal Rule of Criminal Procedure 5.1, and excluding time under the Speedy Trial Act from May 28, 2008 to June 13, 2008. The parties agree and stipulate, and the Court finds and holds, as follows:

1. The defendant, Gregory Allen Weiss, was charged in a complaint dated April 17, 2008 with one count of conspiring to distribute and to possess with intent to distribute 1,000 and more individual marijuana plants, in violation of 21 U.S.C. §§ 812, 841(a)(1), 841(b)(1)(A), and

1 846, and one count of distributing and possessing with the intent to distribute 1,000 and more
2 individual marijuana plants, in violation of 21 U.S.C. §§ 812, 841(a)(1), and 841(b)(1)(A).
3 Weiss was arrested on April 23, 2008, and on April 25, 2008, was released subject to bail
4 conditions, including: (a) a \$600,000 personal recognizance bond (b) co-signed by two
5 financially responsible persons and (c) secured by property with equity covering the bond
6 amount, notably 1109-1147 Evans Drive, Santa Rosa, California. The Court set May 14, 2008 as
7 the date of the defendant's preliminary hearing.

8 2. Since his arrest, Weiss has been represented by Ann C. Moorman, Esq. At the
9 joint request of Ms. Moorman and the Government, and with the consent of the defendant, this
10 Court extended the preliminary hearing date by two weeks, from May 14, 2008 until May 28,
11 2008. This extension was granted in order to allow the parties more time to pursue plea
12 discussions. Time was also excluded under the Speedy Trial Act until the May 28, 2008 date.

13 3. Since May 14, 2008, the parties have continued their plea discussions and are
14 trying to resolve this case prior to the filing of formal charges. The parties have not, however,
15 completed their discussions, and Ms. Moorman has advised the Government that she requires
16 additional time to confer with the defendant concerning his case. Accordingly, the parties, with
17 the consent of the defendant, have asked the Court to extend the preliminary hearing date a
18 second time, this time for 16 days, from May 28, 2008 until June 13, 2008, and to schedule the
19 preliminary hearing at 9:30 am on June 13, 2008, before the duty magistrate judge. The parties
20 have also asked the Court to exclude time under the Speedy Trial Act for the same reasons, i.e.,
21 so that the parties can continue to pursue their plea discussions in an effort to resolve this matter
22 prior to the filing of formal charges, and so Ms. Moorman has more time to advise her client.

23 4. Taking into the account the public interest in the prompt disposition of criminal
24 cases, the above-stated grounds are good cause for extending the time limit for a preliminary
25 hearing under Federal Rule of Criminal Procedure 5.1, for the filing period for an indictment,
26 and for excluding time under the Speedy Trial Act. Failure to grant the continuance would deny
27 defense counsel reasonable time necessary for effective preparation, taking into account the
28 exercise of due diligence, while granting the continuance would allow the parties to continue

1 their efforts to resolve this matter prior to the filing of formal charges.

2 5. Accordingly, and with the consent of the defendant, the Court hereby: (a) vacates
3 the May 28, 2008 preliminary hearing date and extends the time for a preliminary hearing until
4 June 13, 2008, before the duty magistrate judge, at 9:30 a.m.; and (b) orders that the period from
5 May 28, 2008 to June 13, 2008 be excluded from the time period for preliminary hearings under
6 Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C.
7 § 3161(h)(8)(A) & (B)(iv).

8
9 STIPULATED:

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11 DATED: May 22, 2008

12 /s/
ANN C. MOORMAN, ESQ.
Attorney for GREGORY ALLEN WEISS

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14 DATED: May 22, 2008

15 /s/
W.S. WILSON LEUNG
Assistant United States Attorney

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18 IT IS SO ORDERED.

19 DATED: May 23, 2008

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HON. EDWARD M. CHEN
United States Magistrate Judge